

# Court of Appeals, State of Michigan

## ORDER

CITIZENS STATE BANK V VANCO VOJNOVSKI

Docket No. 293375

LC No. 08-004933-PD

Kathleen Jansen  
Presiding Judge

Deborah A. Servitto

Elizabeth L. Gleicher  
Judges

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In lieu of granting the application for leave to appeal, pursuant to MCR 7.205(D)(2), the Court orders that the Macomb Circuit Court's July 13, 2009 order is VACATED IN PART, as follows. That portion of the circuit court's July 13, 2009 order stating "that defendant Oncevski has no interest in the property" is VACATED. As the original land contract vendor, defendant-counterplaintiff Oncevski retains legal title to the subject property as security for whatever amount remains unpaid under the 1994 land contract. *Graves v American Acceptance Mortgage Corp*, 469 Mich 608; 677 NW2d 829 (2004); *In re Estate of Moukalled*, 269 Mich App 708; 714 NW2d 400 (2006). Plaintiff-counterdefendant Citizens State Bank's subsequent mortgage against the land contract vendees' interest in the subject property did not encumber or otherwise affect the rights of Mr. Oncevski as land contract vendor. MCL 565.360(1). The mortgage was recorded after the memorandum of land contract, so Citizens' mortgage is subordinate to Oncevski's interest as vendor under the land contract. MCL 565.25(4); *Church & Church Inc v A-1 Carpentry*, 281 Mich App 330; 766 NW2d 30 (2008). Accordingly, Oncevski retains legal title to the property pending payment of the balance owed under the land contract.

In all other respects the application for leave to appeal is DENIED for failure to persuade the Court of the need for immediate appellate review.

The Court retains no further jurisdiction.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

NOV 30 2009

Date

*Sandra Schultz Mengel*  
Chief Clerk